

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 451, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, line 13, delete "include" and insert "**include:**
- 2 **(A) a claim in bankruptcy; or**
- 3 **(B)".**
- 4 Page 2, line 6, after "subcontractor," insert "**or**".
- 5 Page 2, line 7, delete "or an inspector,".
- 6 Page 2, line 8, delete "inspection,".
- 7 Page 2, line 12, delete "entity." and insert "**entity that contracts**
- 8 **with the home owner to build the residence. A construction**
- 9 **professional is not a home owner under this chapter unless the**
- 10 **construction professional occupies the residence that is the basis**
- 11 **for the claimed defect."**
- 12 Page 2, between line 12 and 13, begin a new line block indented and
- 13 insert:
- 14 **"(5) "Defect" or "construction defect" means damage or**
- 15 **deficiency in the residential construction, design,**
- 16 **specifications, surveying, planning, supervision, testing,**
- 17 **inspection, or observation of construction."**
- 18 Page 2, line 13, delete "(5)" and insert "**(6)**".
- 19 Page 2, line 15, delete "that" and insert "**that:**
- 20 **(i) is owner of the residence; and**
- 21 **(ii)".**

- 1 Page 2, line 17, after "residence;" insert "**or**".
- 2 Page 2, delete line 18.
- 3 Page 2, line 19, delete "(C)" and insert "(B)".
- 4 Page 2, line 20, delete "**or (B)**".
- 5 Page 2, line 21, delete "(6)" and insert "(7)".
- 6 Page 2, line 31, delete "(7)" and insert "(8)".
- 7 Page 2, line 33, delete "(8)" and insert "(9)".
- 8 Page 3, between line 21 and 22, begin a new paragraph and insert:
- 9 "**(c) A home owner is not required to serve an additional written**
- 10 **notice for any additional defects discovered after the home owner**
- 11 **has served an initial written notice of a construction defect in**
- 12 **accordance with this section.**".
- 13 Page 3, line 37, delete "**After service of the**".
- 14 Page 3, delete lines 38 through 40.
- 15 Page 4, line 28, delete "**to**".
- 16 Page 6, line 3, delete "**The claimant must comply with the**".
- 17 Page 6, delete lines 4 through 5.
- 18 Page 6, line 7, after "purposes of" insert "**section 2 of this chapter**
- 19 **and**".
- 20 Page 6, line 8, delete "**Claims for defects discovered after the**".
- 21 Page 6, delete lines 9 through 12.
- 22 Page 6, line 26, delete "**contractor**" and insert "**construction**
- 23 **professional**".
- 24 Page 6, between line 28 and 29, begin a new paragraph and insert:
- 25 "**Sec. 10. If a construction professional unreasonably:**
- 26 **(1) disputes a home owner's claim;**
- 27 **(2) fails to remedy or compromise and settle the claim;**
- 28 **(3) fails to repair the construction defect within a reasonable**
- 29 **time, subject to the nature of the repair or some unforeseen**
- 30 **event not caused by the construction professional; or**
- 31 **(4) fails to respond to a notice;**
- 32 **and the claimant commences an action governed by this chapter**
- 33 **and prevails in the action, the court may award attorney's fees and**
- 34 **costs to the claimant.**".
- 35 Page 6, line 29, delete "**10.**" and insert "**11.**".
- 36 Page 6, line 30, delete "**, including a construction professional**".
- 37 Page 6, line 31, delete "**asserting a claim against another**
- 38 **construction professional,**".
- 39 Page 7, line 11, delete "**11.**" and insert "**12.**".
- 40 Page 7, line 19, delete "**subsection**" and insert "**section**".
- 41 Page 7, line 24, delete "**SELLER**" and insert "**CONTRACTOR**".
- 42 Page 7, line 26, delete "**SELLER**" and insert "**CONTRACTOR**".

- 1 Page 7, line 29, delete "**SELLER**" and insert "**CONTRACTOR**".
- 2 Page 7, line 32, delete "**SELLER.**" and insert "**CONTRACTOR.**
- 3 **HOWEVER, IF YOU UNREASONABLY REJECT A**
- 4 **REASONABLE WRITTEN OFFER AND COMMENCE AN**
- 5 **ACTION AGAINST THE BUILDER OR CONTRACTOR, A**
- 6 **COURT MAY AWARD ATTORNEY'S FEES AND COSTS**
- 7 **TO THE BUILDER OR CONTRACTOR.**".
- 8 Page 7, line 38, delete "Sec. 12." and insert "**Sec. 13.**".
- 9 Page 8, line 4, delete "Sec. 13. (a)" and insert "**Sec. 14.**".
- 10 Page 8, delete lines 13 through 21.
(Reference is to SB 451 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 6, Nays 3.

Senator Server, Chairperson